

Application No. 09/257,902 (Zlotkin)
Amendment dated December 8, 2003
Reply to Action of August 7, 2003

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REMARKS

Claims 51 to 75 are pending in the application.

No new matter has been added by the amendments made herein, as explained below.

All of the claims as they previously read were rejected under 102(b) as anticipated in view of Raymond. Independent claims 51 and 59 have been amended to make it clear that the claimed composition is that composition formed upon admixture of microencapsulated iron granules in combination with an excipient. This provides Applicant's claimed composition with the advantage that it is suitable for administration to an infant, as described in the application as filed, for example at page 1, line 5, page 2, line 13, page 3, lines 5 and 6, and page 5, line 24. As explained in the specification as filed, an infant is a child "between the ages 6-24 months", and the composition "can be added directly to infant foods, including cereals, purees, formula and milk." See page 3, lines 6 to 8.

Raymond does not teach or suggest an article of manufacture that includes the Applicant's claimed composition contained within packaging material. Raymond describes the manufacture of iron-containing beadlets for formulation into tablets. There is no suggestion in Raymond of admixing the beadlets with an excipient and adding the admixture directly to foods that can be consumed by an infant. The only use contemplated by Raymond of his beadlets is in the preparation of chewable, iron-fortified multivitamin tablets. To the extent that Raymond teaches the addition of an excipient to the beadlets, it is for the purpose of creating a mixture suitable for compression into a tablet. See Example 2. An infant cannot chew such a tablet.

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Each of Applicant's independent claims, by requiring that the composition consist essentially of that formed upon admixture of microencapsulated iron granules in combination with an excipient, clearly excludes a tablet formed by subsequent compression of the admixture into a tablet.

There is simply no suggestion provided by the art of record for admixing microencapsulated iron granules with an excipient without a subsequent tableting step. There is thus no motivating factor provided by the art to package the admixture.

Applicant's claimed composition, being an admixture of microencapsulated iron and an excipient provides the advantage of being ingestible without chewing, and is thus suitable for administration to an infant. This is quite different from the tablet of Raymond. It is not possible to take the tablet of Raymond and simply add the tablet to infant cereal, purees, formula and milk, i.e., food that can be ingested by an infant without chewing.

Further, Applicant's claimed composition is required to be contained in packaging material. Modification of the beadlets of Raymond by their admixture with an excipient and incorporation thereof into packaging would destroy the intended use of the beadlets as described by Raymond because, when so packaged, the beadlets would not be suitable for compression into tablet form. Such modification of Raymond to obtain Applicant's claimed invention is thus impermissible.

Applicant thus respectfully submits that claims 51 and 59, as amended, are patentable in view of the teachings of Raymond.

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Dependent claims 68 to 75, new in the application, are based on claim 12 of the application as filed.

Applicant respectfully submits that all of the issues raised in the outstanding Examiner's Action have been addressed, and that the application is thus in condition for allowance.

Note Regarding Representation

A Revocation of Power of Attorney and a Power of Attorney in favor of the undersigned are enclosed. The address and telephone number of the undersigned are indicated below.

In the event that any issues remain, the Examiner is invited to telephone the undersigned at (416) 865-8281 with any proposal to advance prosecution.

Yours very truly,



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Date

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